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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
| 09/305,738 | 05/06/1999 | KLAUS MOSBACH | 003300-357 | 2570 |
| 7590 | 06/22/2005 | | EXAMINER | |
| MORGAN & FINNEGAN LLP 345 PARK AVENUE NEW YORK, NY 10154 | | | CEPERLEY, MARY | |
| | | ART UNIT | PAPER NUMBER | |
| | | 1641 | | |

DATE MAILED: 06/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|--------------------------|---------------------|--|
| Office Action Summary | Application No. | Applicant(s) | |
| | 09/305,738 | MOSBACH ET AL. | |
| | Examiner | Art Unit | |
| | Mary (Molly) E. Ceperley | 1641 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 18 April 2005.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 27-33,54-56,58,59,65,66,68,72-79,85,86,88-90 and 92-114 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 27-33,54-56,58,59,65,66,68,72-79,85,86,88-90 and 92-114 is/are rejected.
- 7) Claim(s) 85,86 and 94-114 is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: _____.

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1) Although specific claims may be discussed in the rejections below, these rejections are also applicable to all other claims in which the noted problems/language occur.

2) The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

3) Claims 27-33, 54-56, 58, 59, 65, 66, 68, 72-79, 85, 86, 88-90 and 92-114 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over the corresponding claims of US 5,959,050 for the reasons of record (see paragraph **2)** of the October 19, 2004 Office action). Applicants have offered to file a terminal disclaimer upon the indication of allowable subject matter in this application.

4) Claims 58, 59, 65, 66 and 68 are rejected under 35 U.S.C. 112, first paragraph, **a)** as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention and **b)** as failing to comply with the enablement requirement.

The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. There is no description in the specification of the therapy method of claim 58 wherein the "drug molecule" is bound to the "artificial antibody" and then the complex is delivered *in vivo*. There is also no enablement for the *in vivo* delivery of a "drug molecule" which is imprinted in the "artificial antibody", i.e. there is no mechanism described for decoupling the "drug molecule" from its specific binding partner (the "artificial antibody").

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5) Claims 58, 59, 65, 66 and 68 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 58 it is unclear if the "drug molecule" is complexed within the "binding site" of the "artificial antibody" (the antibody having another binding region which is specific for the "target") or whether the "target" is complexed with the "binding site" (i.e. the "target" is specific for the region made by "molecular imprint polymerization") of the "artificial antibody".

6) Claims 101, 104, 106 and 109-114 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

a) For claims 101 and 104, there is no written description in the specification of the case wherein "a cancer cell" comprises the "imprinted molecule".

b) For claims 106 and 109-114, there is no written description in the specification of the recited specific definitions of the "organic molecule".

7) Claims 85, 86 and 94-114 are objected to as being a series of substantially duplicate claims. Compare, for example, claims 85, 94 and 96; claims 86, 95 and 102. If applicants disagree with this characterization of the claims as being substantial duplicates, they are required to specifically point out any/all *significant* differences among the sets of claims.

8) Applicants' amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date

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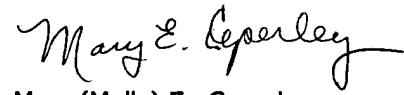
of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

9) Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mary (Molly) E. Ceperley whose telephone number is (571) 272-0813. The examiner can normally be reached from 8 a.m. to 4:30 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Long V. Le, can be reached on (571) 272-0823. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

June 21, 2005



Mary (Molly) E. Ceperley
Primary Examiner
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